

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STEVE JOSEPH DEWOLF, et al.,

Plaintiffs,

vs.

Civ. No. 97-900 LH/LCS

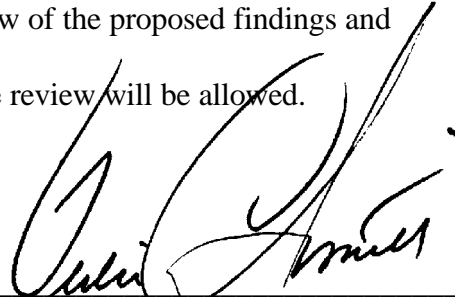
COUNTY OF BERNALILLO,

Defendant.

REPORT AND RECOMMENDATION

On November 14, 1997, I issued an Order to Show Cause which required the Plaintiffs to either effect service of the summons and complaint or show good cause why the Defendant has not been served. The Plaintiffs timely responded to the Order to Show Cause. The Plaintiffs stated in their response that they could not serve the summons and complaint because of threats and limited income. Plaintiffs' allegations of threats are conclusory and unsupported. Moreover, service of process may be effected without cost. Fed. R. Civ. P. 4(c)(2) provides that "[s]ervice may be effected by any person who is not a party and who is at least 18 years of age." In addition, had the Plaintiffs proceeded *in forma pauperis* in this matter, they could have requested the court to "direct that service be effected by a United States marshal, deputy United States marshal, or other person or officer specially appointed by the court for that purpose." **Id.** The above discussion leads me to conclude that the Plaintiffs' allegations regarding failure to serve are without merit and fail to provide good cause for not serving the summons and complaint. I, therefore, recommend dismissing this cause without prejudice.

Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to §636(b)(1)(C), file written objections to such proposed findings and recommendations. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

A handwritten signature in black ink, appearing to read 'Leslie C. Smith', is written over a horizontal line.

Leslie C. Smith
UNITED STATES MAGISTRATE JUDGE